



U.S. Department of
Transportation

Office of the Secretary
of Transportation

GENERAL COUNSEL

400 Seventh St., S.W.
Washington, D.C. 20590

RECEIVED

AUG 20 1999

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

August 20, 1999

RECEIVED
AUG 20 1999
FCC MAIL ROOM

Ms. Magalie R. Salas
Secretary, Federal Communications Commission
The Portals
445 12th Street, S.W.
Washington, D.C. 20554

Re: Petition for Assignment of Abbreviate Dialing Code
CC Dkt. No. 92-105; NSD File No. L-99-24

Dear Ms. Salas:

Enclosed herewith are the original and four copies of the Reply Comments of the U.S. Department of Transportation referenced above, together with a computer diskette containing the document (in WordPerfect 5.x for Windows). I have also enclosed an additional five copies of this pleading for distribution to the individual Commissioners.

Finally, please date-stamp and return to the messenger the extra copy of the reply comments. Thank you for your assistance in this matter.

Sincerely,

Paul Samuel Smith
Senior Trial Attorney
(202) 366-9285

Enclosures

No. of Copies rec'd 049
List ABCDE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

RECEIVED
AUG 20 1999
FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of:)
)
Petition by the United States Department of)
Transportation for Assignment of an)
Abbreviated Dialing Code (N11) to Access)
Intelligent Transportation System (ITS))
Services Nationwide)

CC Dkt. No. 92-105
NSD File No. L-99-24

REPLY COMMENTS OF THE
UNITED STATES DEPARTMENT OF TRANSPORTATION

Introduction

The Federal Communications Commission ("FCC" or "Commission") initiated the instant proceeding in response to a petition from the United States Department of Transportation ("DOT" or "Department") to allocate an abbreviated dialing code ("N11") to state and local governments in order to stimulate the deployment of advanced traveler information services ("ATIS") nationwide. Most commenters have supported the petition; others have expressed neutrality but raised various issues that they believe the FCC must consider first; a very few parties have opposed the petition. DOT wishes to applaud the Commission for its prompt action, and to reply briefly to some of the initial comments.

No. of Copies rec'd 019
List ABCDE

Discussion

It is important to note at the outset that the Department's petition has garnered overwhelming support from state and local governments and others. *See, e.g.*, Comments of Kansas Department of Transportation; I-95 Corridor Coalition; San Jose (California) Department of Streets and Traffic; American Association of State Highway and Transportation Officials; and the American Automobile Association. The public entities that ultimately bear responsibility for addressing traffic-related problems such as congestion and pollution have recognized that ATIS can help meet these growing concerns, and that dramatically simplified access to ATIS will maximize the extent of that help. *Id.*; DOT Petition at 14-16.

A number of telecommunications companies and others have remained neutral on the merits of our petition, but have put forward various administrative, technical, or financial issues that allegedly must be resolved beforehand. *See* Comments of BellSouth Corporation; AT&T Corporation; Cox Enterprises, Inc.; and MCI WorldCom, Inc.¹ The Department respectfully disagrees.

We hope through this proceeding and other means to promote the development and deployment of ATIS, for that is consistent with advancing the public interest through intelligent transportation systems ("ITS"). DOT Petition, *passim*. But DOT envisions no legal requirement that such technology be adopted in any area. Rather, it is the benefits, both demonstrated and in prospect, that attract adherents to ATIS and will continue to do so. The quality and quantity of these benefits will vary in some measure from place to place, as circumstances change. Our original petition and the record make clear that some

¹/ Some parties also apparently believe that DOT has asked for a specific N11 code, particularly 211 or 511. *See* Comments of 211 Collaborative; Comments of BellSouth Corporation. That is not the case. We do not seek a particular number, for any three-digit code offers the same ease of use needed to bring about the maximum benefits promised by ATIS.

cities and regions have already adopted ATIS systems and others have not.² We anticipate that communities will continue to implement ATIS at different times and in different ways.³

This flexibility in the means to reach a common end is key to enabling each transportation agency to best address the situation before it. Some agencies have faced increasing traffic and the problems it brings for years, and thus may be more likely to assign a higher priority and commit more resources to implement or expand ATIS sooner. Other agencies, as the record reflects, face a very different transportation situation. Rural areas have less congestion and related pollution concerns, but travelers there may have other information requirements that drive the adoption of ITS technologies. *See* Comments of Mark S. Owens.⁴

Similarly, the precise nature and extent of travel information needs and other factors may present varying opportunities for public-private partnerships. Government transportation agencies in both congested areas like Washington, D.C. and rural areas like North Dakota have entered into arrangements with private sector firms to provide information pertinent to each region. Locally, the Washington, D.C. Partners in Motion, a partnership of 25 area public agencies, has joined with Batelle, a commercial entity that collects data on traffic and road

²/ *See, e.g.*, DOT Petition at 12 (43 states and 42 major metropolitan areas currently operate ATIS systems); *see also* Comments of the Southern California Association of Governments ("SCAG"), which reports on its version of ATIS ("1-800-COMMUTE") and notes the ongoing difficulties that can attend a region-wide system serving millions.

³/ For example, many of the 43 metropolitan areas that now have ATIS systems have entered into public-private partnerships, but a few have decided that their public agencies should operate these systems in their entirety.

⁴/ The Department is not unmindful of rural regions for which weather and road conditions are more likely to be important. The Advanced Transportation Weather Information System ("ATWIS") project in Minnesota and the Dakotas described by Mr. Owens is an example of a form of ATIS, tailored in content, funding, staffing, and organization, to fit the most prominent needs of the region.

conditions and makes a certain level of information available (via telephone) to the public without charge; more detailed, personalized reports are available to subscribers for a fee. This partnership initially received federal funding, but is intended to be financially self-sustaining within two years. Public agencies and commercial entities have also joined in the Upper Midwest to provide the information appropriate to that region, again with both federal funding at the beginning and the intent of making ATWIS financially self-sustaining in the near future. Comments of Mark S. Owens.

There is thus no need at the outset to prescribe specific procedures, funding sources, technical standards, and the like.⁵ To the contrary, there is every reason to avoid this outcome and to secure the flexibility necessary to the myriad circumstances facing the traveling public. The Department will continue to offer technical, programmatic, and financial assistance to overcome such difficulties and hasten the realization of ATIS benefits.⁶

One party takes issue with the role of government agencies in the Department's petition. Sprint PCS asserts that travel-related information serves the public regardless of the source of that information, and that limiting N11 access for this purpose to government agencies would hinder the development of ATIS systems by limiting competition and choice. Comments of Sprint PCS. It proposes instead that telecommunications carriers determine the source of the travel information to be provided their customers. *Id.* Again we must disagree.

DOT considers that the Commission should assign a three-digit N11 code to state and local governments for ATIS purposes because of these agencies' central role in the safe and efficient movement of travelers. They are responsible

⁵/ We have already noted that DOT has fostered the development of ITS technical standards, and that conformity thereto is becoming a condition for federal funding for relevant projects. DOT Petition at 9-10.

⁶/ We stand ready, for example, to share our experience with parties like the Southern California Association of Governments in dealing with some of the practical problems presented in organizing and operating a widespread ATIS system.

for the construction and maintenance of roadways, traffic management systems, snow removal, accident investigation and clearance, public transit, compliance with air pollution standards, and exercise of the police and other powers necessary to the public safety. They must play a primary role in making relevant information available to travelers.

At the same time, flexibility remains a hallmark of the DOT petition. That these public agencies would administer access to the N11 number that stimulates the flow of information does not mean that they would themselves collect the data, provide the equipment, and employ the staff necessary for its dissemination. As already noted, these agencies have been and should be free to involve commercial firms in one or all aspects of the multi-faceted endeavor that is ATIS. This includes differing arrangements with different information sources, levels of service, costs, and sources of revenue. This would enable the responsible public authorities to preserve and benefit from the competition and choice that so often lead to innovation and efficiency. The Department submits that there should be no uniform prescriptive model for arranging, funding, or delivering this information service.

Finally, at least one party has flatly opposed DOT's petition, on the grounds that it does not satisfy the applicable standards for assignment of an abbreviated dialing code. Comments of GTE Service Corporation. This contention is without merit.

The Commission requires that the benefits of the requested assignment outweigh its costs, that there be no effective alternatives available, and that there be some urgency to the assignment. *Id.* Our petition describes in quantitative and qualitative terms the parameters of the traffic, safety, environmental, and efficiency problems that have given rise to ATIS, the proven effectiveness of ATIS when used, and the impediment to ATIS expansion posed by multiple telephone numbers. It also recounts the repeated inability of concerned agencies to secure even a uniform seven-digit number within a single area code, much less

an abbreviated dialing code. DOT Petition, *passim*. The support contained in the initial comments corroborates these recitations. Moreover, the flexibility that allows each community to implement ATIS at its own pace and in its own way makes it highly unlikely that the costs of the assignment would outweigh its benefits.

Conclusion

The Department commends the FCC for its prompt response to our petition. Assignment of an abbreviated N11 code to state and local governments for ATIS systems has broad support in the record. Calls for prior resolution of other issues misapprehend the critical importance of flexibility to enable each community to adopt a system at a time and in a way that is most appropriate to its circumstances. This same feature provides an opportunity for competition and private firms to play a large role in the organization, operation, and expansion of these systems. We urge the Commission to act favorably on DOT's petition.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nancy E. MCFadden", written over the printed name.

NANCY E. MCFADDEN

General Counsel

August 20, 1999